

SENATE BILL 2186

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 33,
Chapter 7, Part 3, relative to criminal defendants
believed to be incompetent to stand trial.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 33-7-301, is amended by deleting subdivision (a)(1) and substituting instead the following:

(1) When a defendant charged with a criminal offense is believed to be incompetent to stand trial, or there is a question about the defendant's mental capacity at the time of the commission of the crime, the criminal, circuit, or general sessions court judge may, upon the judge's own motion or upon petition by the district attorney general or by the attorney for the defendant and after hearing, order the defendant to be evaluated. At the hearing in which the evaluation is ordered, the judge shall hear testimony for the purpose of determining if the defendant poses a substantial likelihood of serious harm, as defined in § 33-6-501, if the defendant is ordered to be evaluated on an outpatient basis.

(A) If the court finds that the defendant does pose a substantial likelihood of serious harm if an outpatient evaluation is ordered, the court shall order the defendant hospitalized, and if in a department facility, in the custody of the commissioner for not more than thirty (30) days for a competency evaluation.

(B)

(i) If the court finds that the defendant does not pose a substantial likelihood of serious harm, the court shall order the defendant be evaluated on an outpatient basis. The evaluation shall be done by the community mental health center or licensed private practitioner

designated by the commissioner to serve the court or, if the evaluation cannot be made by the center or the private practitioner, on an outpatient basis by the state hospital or the state-supported hospital designated by the commissioner to serve the court.

(ii) If, and only if, the outpatient evaluator concludes that further evaluation and treatment are needed, the court may order the defendant hospitalized, and if in a department facility, in the custody of the commissioner for not more than thirty (30) days for further evaluation and treatment for competence to stand trial subject to the availability of suitable accommodations.

SECTION 2. This act shall take effect on July 1, 2012, the public welfare requiring it and shall apply to all competency evaluations conducted on or after such date.